



7020-02

INTERNATIONAL TRADE COMMISSION

Certain Electronic Nicotine Delivery Systems and Components Thereof

Institution of Investigation

AGENCY: U.S. International Trade Commission

ACTION: Notice

SUMMARY: Notice is hereby given that a complaint was filed with the U.S. International Trade Commission on October 3, 2018, under section 337 of the Tariff Act of 1930, as amended, on behalf of Juul Labs, Inc. of San Francisco, California. A letter supplementing the complaint was filed on October 17, 2018. An amended complaint was filed on October 26, 2018. The amended complaint alleges violations of section 337 based upon the importation into the United States, the sale for importation, and the sale within the United States after importation of certain electronic nicotine delivery systems and components thereof by reason of infringement of certain claims of U.S. Patent No. 10,070,669 (“the ’669 patent”); U.S. Patent No. 10,076,139 (“the ’139 patent”); U.S. Patent No. 10,045,568 (“the ’568 patent”); U.S. Patent No. 10,058,130 (“the ’130 patent”); and U.S. Patent No. 10,104,915 (“the ’915 patent”). The amended complaint further alleges that an industry in the United States exists as required by the applicable Federal Statute.

The complainants requests that the Commission institute an investigation and, after the investigation, issue a limited exclusion order and cease and desist orders.

ADDRESSES: The amended complaint, except for any confidential information contained therein, is available for inspection during official business hours (8:45 a.m. to 5:15 p.m.) in the Office of the Secretary, U.S. International Trade Commission, 500 E Street, S.W., Room 112, Washington, D.C. 20436, telephone (202) 205-2000. Hearing impaired individuals are advised that information on this matter can be obtained by contacting the Commission’s TDD terminal

on (202) 205-1810. Persons with mobility impairments who will need special assistance in gaining access to the Commission should contact the Office of the Secretary at (202) 205-2000. General information concerning the Commission may also be obtained by accessing its internet server at <https://www.usitc.gov>. The public record for this investigation may be viewed on the Commission's electronic docket (EDIS) at <https://edis.usitc.gov>.

FOR FURTHER INFORMATION CONTACT: Pathenia M. Proctor, The Office of Unfair Import Investigations, U.S. International Trade Commission, telephone (202) 205-2560.

SUPPLEMENTARY INFORMATION:

AUTHORITY: The authority for institution of this investigation is contained in section 337 of the Tariff Act of 1930, as amended, 19 U.S.C. 1337, and in section 210.10 of the Commission's Rules of Practice and Procedure, 19 C.F.R. 210.10 (2018).

SCOPE OF INVESTIGATION: Having considered the amended complaint, the U.S. International Trade Commission, on December 6, 2018, **ORDERED THAT** –

(1)) Pursuant to subsection (b) of section 337 of the Tariff Act of 1930, as amended, an investigation be instituted to determine whether there is a violation of subsection (a)(1)(B) of section 337 in the importation into the United States, the sale for importation, or the sale within the United States after importation of certain products identified in paragraph (2) by reason of infringement of one or more of claims 1, 2, 4, 5, 7, 8, 10, 12, 13, 16, 17, 20, and 21 of the '669 patent; claims 1-4, 9-11, 13, 14, 19-21, 24, 28, and 29 of the '139 patent; claims 1-3, 5-9, 12, and 17-20 of the '568 patent; claims 1, 2, 4-6, 8-10, 16, 19, 21, and 27 of the '130 patent; and claims 1-4, 6, 9, 11, 12, 18-23, and 27 of the '915 patent; and whether an industry in the United States exists as required by subsection (a)(2) of section 337;

(2) Pursuant to section 210.10(b)(1) of the Commission's Rules of Practice and Procedure, 19 C.F.R. 210.10(b)(1), the plain language description of the accused products or category of accused products, which defines the scope of the investigation, is “nicotine vaporizer devices and the associated pods sold for use with the devices, and components thereof”;

(3) Pursuant to Commission Rule 210.50(b)(1), 19 C.F.R. § 210.50(b)(1), the presiding administrative law judge shall take evidence or other information and hear arguments from the parties or other interested persons with respect to the public interest in this investigation, as appropriate, and provide the Commission with findings of fact and a recommended determination on this issue, which shall be limited to the statutory public interest factors set forth in 19 U.S.C. §§ 1337(d)(1), (f)(1), (g)(1);

(4) For the purpose of the investigation so instituted, the following are hereby named as parties upon which this notice of investigation shall be served:

(a) The complainants are:

Juul Labs, Inc.

560 20th Street

San Francisco, CA 94107

(b) The respondents are the following entities alleged to be in violation of section 337, and are the parties upon which the complaint is to be served:

J Well France S.A.S.

50 rue de Miromesnil

75008 Paris, France

Bo Vaping
591 Stewart Avenue
Garden City, NY 11530

MMS Distribution LLC
195 Lake Louise Marie Road
Rock Hill, NY 12775

The Electric Tobacconist, LLC
3235 Prairie Avenue
Boulder, CO 80301

Vapor 4 Life Holdings, Inc.
4080 Commercial Avenue, Suite A
Northbrook, IL 60062

Eonsmoke, LLC
1500 Main Ave, 2nd Floor
Clifton, NJ 07011

ZLab S.A.
Ave. Golero, 911 Office 27
Punta del Este - Maldonado - Uruguay
20100

Ziip Lab Co., Limited

E district 4F, 5 building, Wen Ge Industrial
Zone, Heshuikou

Gongming St., Guangming New District

Shenzhen City, Guangdong Province

China 518106

Shenzhen Yibo Technology Co., Ltd.

E district 4F, 5 building, Wen Ge Industrial Zone, Heshuikou

Gongming St., Guangming New District

Shenzhen City, Guangdong Province

China 518106

XFire, Inc.

820 Summer Park Dr., Suite 700

Stafford, TX 77477

ALD Group Limited

No. 2, 3rd Industrial Road

Shixin Community, Shiyan Street

Bao'an District

Shenzhen City, Guangdong Province

China 518108

Flair Vapor LLC
2500 Hamilton Blvd., Suite B
South Plainfield, NJ 07080

Shenzhen Joecig Technology Co., Ltd.
1F-5F, Building 17, Quarter G
ShaJing Rd., Gonghe 3rd Industry District
Baoan District
Shenzhen City, Guangdong Province
China 518104

Myle Vape Inc.
8085 Chevy Chase Street
Jamaica, NY 11432

Vapor Hub International, Inc.
1871 Tapo Street
Simi Valley, CA 93063

Limitless Mod Co.
4590 Ish Drive, Suite 100
Simi Valley, CA 93063

Asher Dynamics, Inc.
14345 Pipeline Avenue
Chino, CA 91710

Ply Rock
14345 Pipeline Avenue
Chino, CA 91710

Infinite-N Technology Limited
4F, iTone Digital Park
Xin Fa San Road
Sha Jing
Shenzhen City, Guangdong Province
China 518200

King Distribution LLC
281 Route 46 West
Elmwood Park, NJ 07407

Keep Vapor Electronic Tech. Co., Ltd.
Block D, XinLong Techno Park
ShaJing Town, Bao An District
Shenzhen, China

(c) The Office of Unfair Import Investigations, U.S. International Trade Commission, 500 E Street, S.W., Suite 401, Washington, D.C. 20436; and

(5) For the investigation so instituted, the Chief Administrative Law Judge, U.S. International Trade Commission, shall designate the presiding Administrative Law Judge.

Responses to the complaint and the notice of investigation must be submitted by the named respondents in accordance with section 210.13 of the Commission's Rules of Practice and Procedure, 19 C.F.R. 210.13. Pursuant to 19 C.F.R. 201.16(e) and 210.13(a), such responses will be considered by the Commission if received not later than 20 days after the date of service by the Commission of the complaint and the notice of investigation. Extensions of time for submitting responses to the complaint and the notice of investigation will not be granted unless good cause therefor is shown.

Failure of a respondent to file a timely response to each allegation in the complaint and in this notice may be deemed to constitute a waiver of the right to appear and contest the allegations of the complaint and this notice, and to authorize the administrative law judge and the Commission, without further notice to the respondent, to find the facts to be as alleged in the complaint and this notice and to enter an initial determination and a final determination containing such findings, and may result in the issuance of an exclusion order or a cease and desist order or both directed against the respondent.

By order of the Commission.

Lisa Barton
Secretary to the Commission

Issued: December 10, 2018

[FR Doc. 2018-26995 Filed: 12/12/2018 8:45 am; Publication Date: 12/13/2018]